

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 92-284-T - ORDER NO. 92-918
OCTOBER 21, 1992

IN RE: Application of Lloyd's Petroleum,)
Inc., Route 6, Box 419, P.O. Box) ORDER
1928, Lancaster, SC 29721, for a) GRANTING
Class E Certificate of Public) APPLICATION
Convenience and Necessity.)

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of an Application filed by Lloyd's Petroleum, Inc. (the Applicant) filed May 19, 1992, for a Class E Certificate of Public Convenience and Necessity to transport:

PETROLEUM AND PETROLEUM PRODUCTS, LIQUID, IN BULK, IN TANK TRUCKS, AS DEFINED IN R.103-211(3): Between points and places in South Carolina.

The Commission's Executive Director instructed the Applicant to publish a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of the Application in the manner and time in which to file appropriate pleadings for participation in the proceeding. The Applicant complied with this instruction and provided the Commission the proof of publication of

the Notice of Filing. Petitions to Intervene were received from the following: Associated Petroleum Carriers, Inc., Infinger Transportation Company, Inc., Kenan Transport Company, and Eagle Transport Corporation.

A hearing was held on October 7, 1992 at 10:30 a.m. in the Commission's Hearing Room, the Honorable Henry G. Yonce, presided. The Applicant was represented by Arthur G. Fusco, Esquire. The Intervenorers were represented by Thomas M. Boulware, Esquire. The Commission Staff was represented by F. David Butler, Staff Counsel.

The Applicant presented the testimony of two witnesses, Michael Lucas and Steve Lloyd. The Intervenorers presented the testimony of O'Neal Sanders, Walter Frick and Garnett Morton. The Commission Staff presented no witnesses.

The Applicant presented the testimony of Michael Lucas of the Lucas Group, who testified to the comprehensive safety program that he had developed for the Applicant. The program consisted of a driver qualification file in which the Company would be able to ensure that all drivers had passed the appropriate endorsements to operate a cargo tank transporting petroleum products and that the drivers possessed the commercial drivers license (CDL). Further, Lucas testified to the Substance Abuse Program that he had developed and to the Comprehensive Vehicle Program, which allowed the Company to maintain repair records, repair and maintenance logs, lubrication and service records, vehicle inspection reports, inspector certifications, annual inspections, and vehicle marking and service. Further, the program developed for Lloyd's

Petroleum, Inc. contained procedures for drivers to follow in the case of accidents, and trained drivers in the safety area, in record keeping, and in handling petroleum products, should the certificate be granted.

The Applicant also presented the testimony of Steve Lloyd, President of Lloyd's Petroleum, Inc. Lloyd testified to the Applicant's fitness, willingness and ability to carry petroleum products on a statewide basis. Lloyd testified concerning the equipment owned, insurance quotes, experience in the petroleum area, and other pertinent matters. The Applicant seeks statewide authority to haul petroleum products in tanks. Lloyd testified that he had had difficulty with petroleum deliveries to his convenience store in the past. Lloyd stated that, on occasion, he had even run out of product while waiting for deliveries of gasoline. Lloyd testified that he would use Motor Truck Rate Bureau (MTRB) rates, if granted a certificate, and that he had bought a tanker at this time. Lloyd also testified that the Lucas Group would facilitate maintenance, as well as safety programs. Lloyd's has Interstate Commerce Commission authority for petroleum products, hazardous materials and general commodities. Lloyd testified that other carriers had promised better service in delivering petroleum products to his convenience store, but so far, Lloyd had not been able to obtain better and more prompt service.

The Intervenor presented the testimony of O'Neal Sanders, President of Associated Petroleum Carriers. Sanders testified to the 70% utilization of Associated Petroleum Carriers' equipment for

the last two years and that the Company had picked up no new business in six months. Sanders testified further that, in his opinion, there was no need for new hauling, such as would be provided by the Applicant.

Walter Frick, of Infinger Transportation Company, Inc., testified. Frick is Vice-President of Marketing and Pricing for the Company. Frick testified that in his opinion, the market for carriage of petroleum products in tank trucks is very depressed, that Infinger has low utilization of its equipment, and has idle equipment.

Further, the Intervenor presented the testimony of Garnett Morton, Director of Pricing for Kenan Transport Company. Morton echoed the sentiments of Sanders and Frick with regard to the belief that utilization of equipment is low and that there has been no growth posture for the last several years. The three intervenor witnesses expressed the opinion that the shippers' needs are presently being met with existing carriers.

Upon consideration of this matter, the Commission believes that Lloyd's Petroleum, Inc. has demonstrated that it is fit, willing and able to perform the proposed service under the criteria of R.103-134. Despite the testimony of the Intervenor that the market for such services is depressed, the Commission notes with interest the Applicant Lloyd's testimony that shipments are often late getting to his convenience store and that he runs out of product at times. The Commission is, therefore, of the opinion that the public convenience and necessity is not being served in

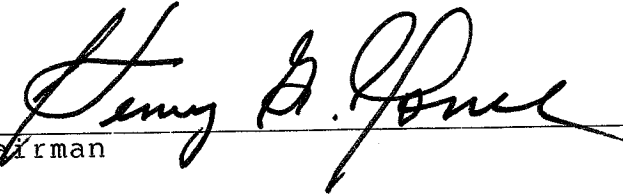
this area.

IT IS THEREFORE ORDERED THAT:

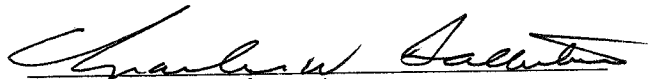
1. The relief sought in the Application for a Class E Certificate of Public Convenience and Necessity shall be approved between points and places in South Carolina.
2. That the Applicant file the proper license fees and other information required by S.C. Code Ann., Section 58-23-10 et seq. (1976), as amended, and by R.103-100 through R.103-280 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.
3. That upon compliance with S.C. Code Ann., Section 58-23-10, et seq (1976) as amended, and the applicable provisions of R.103-100 through R.103-280 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, a certificate shall be issued to the Applicant authorizing the motor carrier services granted herein.
4. That prior to compliance with such requirements and receipt of a certificate, the motor carrier services authorized herein may not be provided.

5. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)